

RD AN No. 4167 (1980-E and 4287-B and 4280-B)
March 27, 2006

SUBJECT: Business and Industry Guaranteed Loan Program and Section 9006
Renewable Energy Systems and Energy Efficiency Improvements
Guaranteed Loan Program – Lender Repurchase from the
Secondary Market

TO: State Directors, Rural Development

ATTN: Business Program Directors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance to State Offices concerning lender's repurchase of a Business and Industry (B&I) Guaranteed Loan and Section 9006 Renewable Energy Systems and Energy Efficiency Improvements Guaranteed Loan (Section 9006) from the secondary market.

COMPARISON WITH PREVIOUS AN:

There has been no previous AN.

IMPLEMENTATION RESPONSIBILITIES:

When a lender sells a loan in the secondary market, it should be a "good faith" sale, i.e. the loan should be current, and not in technical violations of covenants listed in the term Loan Agreement. The lender should not sell B&I or Section 9006 Guaranteed Loans into the secondary market that do not meet this test.

According to the Guaranteed Loan System, a majority of B&I Guaranteed Loans have a variable interest rate. In the event that a B&I or Section 9006 guaranteed borrower becomes delinquent or is experiencing financial difficulties, a Lender cannot modify the terms of a loan without the consent of the Holder and the U.S. Department of Agriculture. RD Instruction 4287-B, section 4287.112, states that any interest rate

EXPIRATION DATE:
March 31, 2007

FILING INSTRUCTIONS:
Preceding Instructions 1980-E and
4287-B and 4280-B

reduction must be collectively initiated by the Borrower, Lender, and Holder. The Agency anticipates that the Lender will negotiate with a Holder in good faith to resolve any disagreement concerning the administration of a loan under this program. However, the Lender should abide by all conditions set forth in RD Instruction 4287-B, section 4287.112, when terms of the loan are to be modified.

The Lender can repurchase the loan from the secondary market for servicing purposes. Form RD 4279-5, "Loan Note Guarantee," CONDITIONS OF GUARANTEE paragraph 10, Repurchase by Lender for Servicing, states: "If, in the opinion of the Lender, repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the Holder will sell the portion of the loan to the Lender for an amount equal to the unpaid principal and interest on such portion less Lender's servicing fee".

The Lender should repurchase a loan from the secondary market for servicing purposes when the loan is experiencing some financial difficulties, i.e. workout agreement, delinquent loan repurchased for restructuring purposes. The Lender should not repurchase the loan from the secondary market solely to reduce the interest rate if the loan is not experiencing financial difficulties.

If we can be of further assistance, please contact the B&I Loan Servicing Branch at (202) 690-4103.

(Signed by David Rouzer) for

JACKIE J. GLEASON
Acting Administrator
Business and Cooperative Programs